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Kentucky Real Estate Appraisers Board

To: Kentucky Licensed and Certified Real Property Appraisers

From: Larry Disney

Date: April 17, 2008

Subject: Home Value Protection Program and Cooperation Agreement

In a press release issued March 3, 2008 by the New York Attorney General's Office, it was announced that the Attorney General Andrew M. Cuomo had entered into a proposed agreement with Fannie Mae, Freddie Mac and their federal regulator, the Office of Federal Housing Enterprise Oversight (OFHEO).

The following includes sections and information from that press release by the Department of Law, The State Capitol, Albany, NY 12224, phone 518-473-5525.

Attorney General Cuomo commented, "With this agreement, Fannie Mae and Freddie Mac have become leaders in transforming the mortgage industry. Now national banks have a clear choice: immediately adopt the new code and clean up appraisal fraud in the mortgage industry or stop doing business with Fannie Mae and Freddie Mac – it is that simple."

What does the agreement mean to appraisers and to lenders?

Fannie Mae and Freddie Mac, which purchase roughly 60 percent of all home loans originated in the United States, have agreed to the following:

- **Establishment of the "New Home Valuation Protection Code,"** (the "Code"), which creates requirements governing appraisal selection, solicitation, compensation, conflicts of interest and corporate independence, among other reforms. (Full Code Attached). Under the new Code:
 - Mortgage Brokers will be prohibited from selecting appraisers;



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- Lenders will be prohibited from using “in-house” staff appraisers to conduct initial appraisals and
- Lenders will be prohibited from using appraisal management companies that they own or control.
- **Banks will be required to adhere to Code.** Beginning January 1, 2009, Fannie Mae and Freddie Mac will require that lenders represent and warrant that appraisals related to mortgage loans originated on or after January 1, 2009 conform to the code or they will not be purchased.
- **Formation of the “Independent Valuation Protection Institute,”** (the “Institute”), a new organization which will implement and monitor the Code. The Institute, which will be funded with \$24 million from Fannie Mae and Freddie Mac, will also:
 - *Establish a complaint hotline for consumers nationwide* to call if they believe the appraisal process has been tainted or if they have been harmed by appraisal fraud.
 - *Serve as a contact for appraisers themselves* if they believe their independence has been compromised. These complaints will be handled confidentially to protect appraisers from retaliation. The Institute will mediate complaints, or can forward them to the appropriate federal or state law enforcement agency or regulator.
 - *Report publicly on its activities* to the New York Attorney General and OFHEA on a bi-annual basis.
 - *Appoint a Board of Directors* which must be approved by both the New York Attorney General and OFHEO.

"This settlement represents one of the first major blows against the types of predatory lending that were so prevalent in the mortgage business of the last few years. Appraisal fraud has left millions of Americans unable to afford their homes and has created a drag on the American economy. This agreement will reduce the conflicts of interest and economic incentives that made appraisal abuse and fraud so easy and attractive to lenders," Senator Schumer said.

"Accurate, independent appraisals are very important to ensuring the safety and soundness of Fannie Mae and Freddie Mac and the mortgage market," said OFHEO Director James Lockhart. "OFHEO is committed to working closely with fellow regulators, the Attorney General, Fannie Mae, Freddie Mac, appraisers, lenders and other market participants to assure that the roll-out of the new code builds upon best practices, recognizes constructive comments to identify further refinements, and avoids unintended consequences."



“We are pleased to work with regulators to do our part to ensure sound, accurate, independent and reliable appraisals,” Fannie Mae General Counsel Beth Wilkinson said. “As the nation’s leading purchaser of mortgage loans in the secondary market, Fannie Mae shares the interests of consumers in the integrity of the home valuation process, which is an important part of a well functioning market.”

"Accurate appraisals are fundamental to Freddie Mac's effective credit risk management - as evidenced by our leadership in quality control programs and assistance with criminal prosecutions of mortgage fraud. The Code of Conduct announced today enhances the independence and accuracy of the appraisal process. And it builds on our company's long-standing efforts to fight mortgage fraud by providing strong new protections for homebuyers, mortgage investors and the housing market. In addition, we look forward to working with the New York Attorney General, OFHEO, Fannie Mae and other mortgage market participants in launching the Independent Valuation Protection Institute. By funding the Institute, we are advancing the development and adoption of best practices in the appraisal process, " said Freddie Mac Executive Vice President and General Counsel Robert Bostrom.

For more than a year, the Attorney General’s office has conducted an industry-wide investigation into mortgage fraud. On November 7, 2007, Cuomo announced he had issued Martin Act subpoenas to Fannie Mae and Freddie Mac seeking information on the mortgage loans the companies purchased from banks, including Washington Mutual, the nation’s largest savings and loan. The subpoenas also sought information on the due diligence practices of Fannie Mae and Freddie Mac, and their valuations of appraisals.

The subpoenas came on the heels of the filing of a lawsuit by the Attorney General against First American and its subsidiary eAppraiseIt. The lawsuit, announced on November 1, 2007, detailed a scheme in numerous e-mails showing First American and eAppraiseIT caved to pressure from Washington Mutual to use appraisers who provided inflated appraisals on homes. E-mails also show that executives at First American and eAppraiseIT knew their behavior was illegal, but intentionally broke the law to secure future business with Washington Mutual. Between April 2006 and October 2007, eAppraiseIT provided over 250,000 appraisals for Washington Mutual. The lawsuit is still pending, and the industry-wide investigation into mortgage fraud continues.

The following are pertinent to the agreement. Each item is followed by the web-link:

1. Home Valuation Code of Conduct:

http://www.freddiemac.com/singlefamily/docs/030308_valuationcodeofconduct.pdf

2. Home Value Protection Program and Cooperation Agreement (Fannie Mae):

<http://www.oag.state.ny.us/press/2008/mar/Fannie%20Final%203-3.pdf>

3. Home Value Protection Program and Cooperation Agreement (Freddie Mac):

<http://www.oag.state.ny.us/press/2008/mar/Freddie%20Final%203-3.pdf>



You may download the above items by cutting and pasting the link into your browser. If you experience problems doing so, enter the item name in a search engine and you should have no problem locating any one of them.

It has been suggested the Kentucky Real Estate Appraisers Board should follow the lead of other States and agencies in responding to all of or parts of the agreement. However, at this time the Board believes there is not sufficient information to use in making a decision of how, if at all, the agreement might impact the regulation of appraisers, positively or negatively. Therefore, the Board voted to not reply until the matter has been studied, and adequate information is made available from which to present a reasonable and rationale reply.

The document is an agreement between parties. It is not a law or a regulation that is commonly exposed for comment. Therefore, it is not believed to be within the authority of the Kentucky Real Estate Appraisers Board to comment or debate an agreement between another State and private or quasi-government agencies.

However, the Kentucky Board strongly advises any appraiser or group of appraisers to reply as they feel necessary on behalf of the appraisal profession or in their own best interest as licensed and certified appraisers. Also, if you plan a response, please do so as-soon-as-possible because the period for comment closes on April 30, 2008.

The following web links should be used by those who wish to send suggestions and feedback:

Freddie Mac - http://www.freddiemac.com/singlefamily/home_valuation_comments.html

Fannie Mae - <https://www.ric-surveys.com/se.ashx?s=7205300750A3F19F>

Office of Federal Housing Enterprise Oversight - <http://www.ofheo.gov/contact.aspx>

NY Attorney General Andrew Cuomo - http://www.oag.state.ny.us/online_forms/email_ag.jsp

Please contact the Board office if you have any questions, or if you desire other information concerning this topic.

